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ELIMINATION OF APARTHEID AND ESTABLISHMENT OF A UNITED, DEMOCRATIC AND NON-RACIAL SOUTH AFRICA

Fourth progress report on the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

Report of the Secretary-General

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I. INTRODUCTION

1. In paragraph 20 of its resolution 47/116 A of 18 December 1992, the General Assembly, inter alia, requested the Secretary-General to report to it at its forty-eighth session on measures taken to facilitate the peaceful elimination of apartheid and the transition of South Africa to a non-racial and democratic society as envisaged in the Declaration on Apartheid and its Destructive Consequences in Southern Africa. The present report is submitted in compliance with that request.

2. To prepare the report, the Secretariat sought the observations of the Government, political parties, movements and organizations represented at the Multi-party Negotiating Process, as well as those of South African non-governmental organizations, on the overall situation in South Africa, including developments regarding the implementation of the Declaration since September 1992. The annex to the present report contains an analysis based primarily on the views of the respondents.

3. In its resolution 47/116 A, the General Assembly also requested the Secretary-General to continue to ensure the coordination of activities of the United Nations and its agencies with regard to, and, as appropriate, inside South Africa. Details on the steps taken by the United Nations system to implement those provisions are contained in a separate report that I have submitted to the General Assembly (A/48/467 and Add.1).

II. OBSERVATIONS

4. In my last progress report, I had stated that the role of the international community in the establishment of a democratic, non-racial South Africa could only be complementary to those of the various parties in the country, and that the primary responsibility for achieving a just and long-lasting agreement through negotiations must rest with the people of South Africa as a whole. During the period under review, I designated Ambassador Tom Erik Vraalsen, Assistant Secretary-General of the Ministry of Foreign Affairs of Norway and former Permanent Representative of Norway to the United Nations, as my Special Envoy to South Africa for consultation with the parties concerned on political developments in the country. Mr. Vraalsen visited South Africa from 22 November to 9 December 1992. Subsequently, I submitted a detailed report to the Security Council on his mission and that of his predecessor, former Under-Secretary-General Virendra Dayal (S/25004).

5. The resumption of multi-party negotiations in April 1993 with broader representation than the Conference for a Democratic South Africa (CODESA), after a 10-month suspension, was a most welcome development, which resulted in significant breakthroughs, including agreement on a date for South Africa's first non-racial, democratic elections. This was followed by the enactment into law of most of the principal provisions of the transitional arrangements to the negotiations, including a Transitional Executive Council, an Independent Electoral Commission, an Independent Media Commission and an Independent Broadcasting Authority, and an interim constitution. The broad-based

representation of the South African parties in the negotiating process and the determination and commitment of most of them to a peaceful political settlement have been decisive factors leading to these positive developments.

6. The United Nations Observer Mission in South Africa was established in October 1992 to assist the parties in South Africa in their efforts to put an end to the violence. Initially 50 United Nations observers were deployed. Subsequently, the Security Council approved my recommendation to increase the number of observers to 100. The United Nations observers have been deployed, along with those from the Organization of African Unity, the Commonwealth and the European Union, in various parts of South Africa, particularly in areas where violence is taking its worst toll. In accordance with the mandate entrusted to the Mission by the Security Council, the observers have been cooperating with the National Peace Secretariat and its local and regional dispute resolution committees and with the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (Goldstone Commission). It is generally agreed in South Africa that the presence of United Nations observers has had a salutary effect on the peace process.

7. However, violence continues to pose a major threat to the peace process. To break the escalating cycle of violence requires the cooperation of the Government and all parties in South Africa. Such cooperation is also essential to the efforts to resolve any remaining difficulties peacefully and to facilitate the establishment of the arrangements for South Africa's transition to a democratic, non-racial and united country. Since my last report, I have on various occasions expressed my concern at the increasing violence, which has reached new heights, and urged the parties to resolve their differences through the negotiating process.

8. During the period under review, I had occasion to meet with all the major political leaders in the country and to discuss the situation in and relating to South Africa. I met in New York with President de Klerk and Mr. Mandela on 23 and 29 September 1993, respectively. While on a visit to Maputo, I arranged to meet Mr. Clarence Makwetu, Chief Mangosuthu G. Buthelezi and Foreign Minister Roelof Botha.

9. With all my South African interlocutors, I underlined the importance the United Nations attached to the peace process in the country and reiterated the support of the international community to the efforts to establish a democratic, non-racial and united South Africa. I also stressed the imperative need to end the violence in the country in order to facilitate a peaceful transition and the holding of free and fair elections.

10. During my meeting with Chief Buthelezi, I stressed the importance accorded to the multi-party negotiations by the international community and to the formation of the Transitional Executive Council, and that it was only by participating in the negotiations, no matter how difficult, that all parties could ensure that their views were heard, discussed and reflected in the interim constitution. I also urged the Freedom Alliance through Chief Buthelezi to participate in the peace process and underlined that its participation was essential to the establishment of a democratic, non-racial and united South Africa.

11. While in Maputo, I also met with the chairmen of the National Peace Committee and its secretariat, Mr. John Hall and Mr. Antonie Gildenhuys, respectively. My discussions with the chairmen of the National Peace Committee and its secretariat centred on how the peace structures could be strengthened to defuse increasing violence and broadened to be more representative of the population as a whole.

12. Taking into account the progress reached in the peace process, the General Assembly on 29 September 1993 adopted resolution 48/1, by which it decided to lift all provisions relating to prohibitions or restrictions imposed by it on economic relations with South Africa. The United Nations will remain active, through its offices and agencies and relevant Trust Funds as well as in cooperation with intergovernmental organizations, in providing assistance, as appropriate, to disadvantaged South Africans. It will also consider the preparation of a concerted system-wide response to address the economic and social disparities resulting from the long practice of institutionalized racism.

13. Among the initiatives being undertaken is the organization of a donors' conference for human resource development in a post-apartheid South Africa. The United Nations and the Commonwealth Secretariat have been holding consultations with a view to organizing such a conference, which would provide concrete assistance to South Africa in the transition period. Those consultations have involved a group of interested organizations, including the United Nations, the Commonwealth Secretariat, the United Nations Development Programme, the World Bank, the African Development Bank, the Organization of African Unity, the European Union and the Agence de coopération culturelle et technique. Several meetings of these organizations have been held to make preliminary plans for the donors' conference. The main objective of the conference, which is tentatively scheduled to take place in June 1994, will be to mobilize international support for addressing the human resource development needs of a post-apartheid South Africa, particularly those of the disadvantaged sectors of society. It has been agreed that the conference would be convened only after a democratically elected, non-racial Government has been established and be held under its sponsorship. Accordingly, the United Nations and the Commonwealth have made it clear that the conference would be organized in close cooperation with the new Transitional Executive Council.

14. I applauded the historic agreement reached by the participants at the Multi-party Negotiating Process on 17 November 1993 on an interim constitution and noted that the agreement crowned three years of difficult negotiations to lay the framework for South Africa's transition to a democratic, non-racial and united country. I also reiterated the continued support of the United Nations to the peace process and its readiness to assist the people of South Africa in the formidable challenges that lay ahead, including in efforts to facilitate the country's first multi-party democratic elections scheduled for 27 April 1994. With regard to these developments, I am accelerating contingency planning for a possible United Nations role in the election process, including coordination with the observer missions of the Organization of African Unity, the European Union and the Commonwealth, to enable expeditious consideration of the request to the United Nations for such assistance.

15. In concluding, I wish to urge all parties in South Africa to cooperate in the full and timely implementation of the transitional arrangement in order to ensure the early establishment of a non-racial, democratic society in South Africa. For my part, I shall continue to provide all necessary assistance to facilitate the success of the transitional process.

ANNEX

Analysis of the information submitted to the Secretary-General on the implementation of the Declaration on Apartheid and its Destructive Consequences in Southern Africa

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I. INTRODUCTION

1. To facilitate the measurement of progress towards dismantling apartheid, the present report used as a starting-point the situation as it existed in September 1992.

2. The report is based on written submissions provided to the Secretariat by 10 November 1993 from the Government of South Africa, other participants in the multi-party negotiations and a number of movements and other concerned organizations. 1/ The submissions were also supplemented by other sources, including official statements and press releases.

3. After a 10-month deadlock in the multi-party negotiations that had begun within the framework of the Convention for a Democratic South Africa (CODESA), a Multi-party Planning Conference met at Johannesburg on 5 and 6 March 1993. The Conference was attended by 26 delegations, including some that had not participated in CODESA, and represented the largest gathering of political parties and organizations in the history of South Africa. As a result of agreement reached at the Planning Conference, multi-party constitutional negotiations were resumed in April 1993 within the framework of the Multi-party Negotiating Process that succeeded CODESA. The only parties refusing to participate in the resumed negotiations were the Azanian People's Organization (AZAPO) and the Afrikaanse Weerstandsbeweging (AWB, the Afrikaner Resistance Movement). 2/

4. The Multi-party Negotiating Process consists of several operating structures. The Plenary, consisting of leaders of each participating organization, ratifies decisions reached at the negotiations; the Negotiating Council negotiates and prepares proposals for consideration by the Plenary; and the Planning Committee works on a day-to-day basis on organizational, procedural and substantive issues to be brought to the Council. Seven technical committees composed of experts are responsible for drafting legislation and reports under the direction of the Negotiating Council. They work on specific issues such as: constitutional issues; fundamental rights during the transition period; the Transitional Executive Council (TEC); the Independent Electoral Commission (IEC); the Independent Media Commission (IMC); the Independent Broadcasting Authority (IBA); the repeal or amendment of legislation impeding free political activity and of discriminatory legislation; and the issue of violence. 3/

5. In order to facilitate the negotiation process, an understanding was reached allowing for the use of "sufficient consensus" as a mechanism for decision-making, by which a party or parties can record disagreement without blocking decisions agreed on by a majority. That mechanism has been used increasingly in the course of the negotiations.

6. On the basis of "sufficient consensus" a decision was taken on 2 July 1993 within the negotiating framework that democratic elections to a constituent assembly/interim parliament would be held on 27 April 1994. Organized on the basis of universal adult suffrage and according to a system of proportional representation, the elections will be the first in which South Africans of all races will be able to cast their votes. The Inkatha Freedom Party (IFP), the

KwaZulu Government and the Conservative Party (CP) were among seven parties that opposed setting the date at that stage of the negotiations. 4/ Stating that 11 out of 26 parties had not supported the decision, the IFP has expressed the view that there was no "sufficient consensus" for the decision. 5/

7. In September, four draft bills were approved within the multi-party negotiating framework to establish the following structures to oversee the transition to a democratic order: a TEC; an IEC; an IMC and an IBA (see para. 4 above). The structures would become operational following approval within the framework of the Multi-party Negotiating Process and adoption of an interim constitution and an electoral bill, constituting a total package of agreements for the transition. While the TEC will function only until elections have been held on 27 April 1994, the interim constitution is to be in place until a final constitution has been adopted by the elected constituent assembly/interim parliament. 6/

8. On 23 September, the Parliament passed a bill establishing the TEC, whose main purpose is to level the political playing field and to oversee and ensure free and fair elections for an assembly with both constitution-making and interim parliamentary functions, and for an interim Government. The bill was adopted by a vote of 211 to 36. 7/ While the CP voted against the bill, members of the IFP in the existing Parliament abstained. Bills were also passed by the Parliament to enable the IEC, the IMC and the IBA to be set up. The IFP subsequently declared that it did not feel bound by the TEC decisions, nor by any obligation to implement the TEC. 8/

9. On 7 October, the homelands of Bophuthatswana and Ciskei announced their withdrawal from the Multi-party Negotiating Process. This was followed by an announcement that the Concerned South Africans Group had been disbanded and replaced by a new grouping called the Freedom Alliance. The Alliance consists of the two homelands, the IFP and the White right-wing parties making up the Afrikaner Volksfront (AVF, the Afrikaner People's Front), including the Conservative Party (CP). The Alliance declared that it would henceforth only discuss the outstanding issues through a joint negotiating team. 9/ The Concerned South Africans Group had opposed the agreements reached in bilateral negotiations between the Government and the ANC and had called for the replacement of CODESA by another, more representative forum and for the disbanding of the military wing of the ANC (Umkhonto we Sizwe or MK) before the resumption of multi-party negotiations. 10/

10. Arguing that only a federal system could bring about a lasting political settlement, the IFP has proposed a constitutional convention of leaders to draft a final constitution capable of establishing a federation of states and entrenching pluralism. That final constitution could be submitted to a national referendum for approval. Elections held under the new constitution and binding on the elected Government, and all Governments to come, would thus allow parties to go to the people for their endorsement on policy issues and on how agreed-to democratic options should be implemented rather than on the issue of who should write the future constitution. 11/

11. In the view of the South African Institute of Race Relations, the constitutional negotiations have been too hasty; they had prematurely set an

election date; they had focused on sharing rather than limiting power; and they had neglected to cater adequately for minorities. While enactment by a constitutional assembly was a necessary condition for a new constitution's legitimacy, it was not enough. Different from an ordinary law, which might legitimately be enacted whatever party happened to dominate parliament at any given time, a constitution, the purpose of which is to set out the rules of the political game, should be acceptable to the widest spectrum possible of political players, lest it risk being rewritten whenever there was a change of government. 12/

12. In its submission to the present report the ANC stated that in order for it to give serious attention to the concerns expressed by the Freedom Alliance, it was continuing with bilateral discussions with the Alliance, while the multi-party negotiations were progressing simultaneously. The ANC, however, together with the other interlocutors in the negotiations, was determined that no organization or group of organizations should hold the country to ransom or derail the process in any way.

13. On 18 November, at a meeting of the Plenary of the Multi-party Negotiating Process, the leaders of 20 political parties endorsed a Constitution for the Transitional Period and an Electoral Bill agreed on by the Negotiating Council. The Plenary also adopted the package of agreements for the transition, allowing for the TEC, the IMC, the IEC and the IBA to become operational. As for the TEC, the Plenary decided that it would constitute the successor to the Negotiating Council. The Plenary also confirmed the election date of 27 April 1994 and made a commitment to ensure that the election would take place as agreed.

14. The Afrikaner Volksunie (AVU, the Afrikaner People's Union) voted against adoption of the various elements of the transition package. The IFP and other members of the Freedom Alliance did not participate in the session. The Plenary of the Multi-party Negotiating Process, however, agreed to promote the principle of continued negotiations amongst participants in the Process and members of the Freedom Alliance.

15. Following the adoption by the Parliament of the interim constitution and the Electoral Bill, the TEC, the IBA, the IEC and the IMC will become operational. The TEC is expected to become operational in the first week of December, followed by the other bodies.

II. FACTORS CONDUCIVE TO ENHANCING A NEGOTIATED SETTLEMENT TO END APARTHEID

Creation of an atmosphere free of violence

16. In its Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by consensus on 14 December 1989 (resolution S-16/1, annex), the General Assembly laid down as one of the objectives the creation of the "necessary climate in which free political discussion can take place - an essential condition to ensure that the people themselves participate in the process of remaking their country" (para. 7) and called for negotiations "in an

atmosphere which, by mutual agreement between the liberation movements and the South African regime, would be free of violence" (para. 8), recognizing the linkage between an atmosphere of violence and progress with regard to negotiations. It will be recalled that three elements were found to be directly related to the issue of free political discussion and activity: freedom from violence, freedom of assembly and freedom of the press (A/44/960, annex I, para. 87).

17. During the period under review, while a fluctuation in the pattern and frequency of the violence could be registered, the negative effects on South African society and its potential for a peaceful transition and on a stable development towards increased prosperity for all remained unchanged. Townships, squatter, rural and urban communities suffered greatly from attacks by criminal vigilante groups, unknown hit men and persons alleged to be members of covert security forces. The causes and motives behind the unprecedentedly high levels of general violence have become increasingly difficult to pinpoint. According to human rights organizations and others in South Africa, among the perpetrators of violence were those who had a stake in apartheid structures and were, therefore, bent on "destabilizing" the country in order to thwart the establishment of a non-racial democracy, 13/ a view also stated by the ANC in its submission. In this connection, it is noteworthy that more people (1,646) were killed as a result of violence from July to September 1993 than in the first six months of the year. During the first nine months of 1993, deaths due to political violence totalled 3,049, 10 per cent higher than the total for the corresponding period in 1992. 14/

The National Peace Accord

18. It will be recalled that, on 14 November 1991, the National Peace Accord was signed by 24 political parties and organizations, trade unions and civic organizations, providing a comprehensive framework for ending violence. However, some political parties and organizations, including the PAC, the CP and the homelands of Transkei, Venda and Bophuthatswana, did not sign the Accord. The main structures set up under the National Peace Accord are:

(a) The National Peace Committee, which consists of representatives of the signatories under a chairman and vice-chairman drawn from religious and business communities. It monitors and makes recommendations on the implementation of the Peace Accord. The National Peace Committee is complemented by a growing number of regional and local dispute resolution committees;

(b) The National Peace Secretariat, which consists of at least four persons nominated by the National Peace Committee. It establishes and coordinates regional and local dispute resolution committees;

(c) The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (Goldstone Commission), a statutory body that investigates violent incidents and makes recommendations on how violence and intimidation can be prevented.

19. In its submission to the present report the Government of South Africa stated that the Multi-party Negotiating Process was still considering a number

of additional measures to enhance the effectiveness of the National Peace Accord, which had made an exceptional contribution towards peace in South Africa, and noted that on 22 June 1993 a declaration on the cessation/suspension of hostilities, armed struggle and violence and a resolution on conditions that should be created to eliminate violence were adopted within the Process.

20. During the period under review, the Goldstone Commission continued to play a major role in investigating the role of security forces of various parties in the ongoing political violence in South Africa and in specific incidents such as taxi-, train- and hostel-related violence, as well as attacks against the police and security forces. It has also conducted inquests into political assassinations and probes into the smuggling of arms into South Africa, the school crisis, activities of the Azanian People's Liberation Army (APLA) and the KwaZulu Police, the alleged involvement of the South African Defence Force (SADF) Military Intelligence in fomenting conflict, actions of the police during the AWB raid on the World Trade Centre in Johannesburg in June and the violence occurring in the East Rand since July 1993. To assist its investigations, the Goldstone Commission has established the Institute for the Study of Public Violence, which has received valuable financial and technical support from the Government of Norway.

21. In November 1992, the Goldstone Commission raided an SADF Military Intelligence unit and seized files that contained evidence that a campaign had been conducted by it to discredit the ANC. Following the report of that initial stage of the Commission's investigation, the State President suspended and retired 23 officers from the SADF for illegal activities and malpractice, and announced that, pending the completion of the investigation, further disciplinary action and possible criminal prosecution could follow.

22. In December 1992, the Goldstone Commission released its third interim report. In it the Commission recommended that political leaders verbally attacking other political leaders in ways that breached the National Peace Accord be banned from addressing public meetings. The report also contained specific recommendations regarding the carrying of weapons in public, the fencing off of hostels and the regulation of gatherings. Moreover, Justice Goldstone on several occasions publicly criticized the Government, political leaders and the security forces for failing to act appropriately on recommendations of the Commission.

23. Regarding the AWB raid on the World Trade Centre on 25 June 1993, the Goldstone Commission concluded that the police were guilty of dereliction of duty by not having a strong and visible show of force during the assault and stated that it was clear that the occupation of the building was "anything but spontaneous" and that the police had known that the confrontation with the AWB was "inevitable". The failure of the security forces to act decisively against members of the AWB involved in the incident further undermined their credibility, underlining the necessity for joint control of the security forces. 15/

24. The Government stated in its submission that the drastic increase in criminal violence during the period under review had become an issue of concern, constituting a serious threat to peace and stability in both the immediate and

long term. Political violence accounted for approximately 13 per cent of all interpersonal violence and 30 per cent of police manpower were involved in dealing with it. The Government noted that the following trends inhibited the creation of an atmosphere free of violence: the targeting of police officers for murder; the smuggling of firearms from neighbouring countries; attacks on the farming community; and politically inflammatory slogans used at political campaign rallies or at mass gatherings, which increased the proclivity to violence and provided impetus to the mobilization of right-wing action.

25. Stating its support for the National Peace Accord and its structures as well as for the Goldstone Commission, the Government identified a number of problem areas where, if improvements were to be made, the Peace Accord would be better implemented. Those areas included the open hostility between the ANC and the IFP; political groups using the regional and local dispute resolution committees as political platforms; lack of objectivity by the chairpersons of certain regional and local dispute resolution committees; and the extension to the other Peace Accord signatories of the code of conduct, currently only applicable to and binding on the South African Police (SAP).

26. According to the Government, coordination and cooperation between the SAP, the Peace Secretariat and the international observers had been successfully consolidated during the period under review. As a result, those entities deserved credit for having succeeded in defusing many potentially violent situations, saving lives and preventing the destruction of property. It was also emphasized that so far the allegations regarding the existence of an organized "third force" instigating and orchestrating violence had not been substantiated.

27. The ANC noted in its submission that the level of politically motivated violence had escalated since the adoption of the Declaration on Apartheid in 1989, despite the many efforts that had been made to end it. It also noted that marked escalations in violence coincided with breakthroughs in the negotiating process and as the April elections approached it should be expected, therefore, that forces opposed to the democratic transformation of South Africa would intensify their efforts to destabilize the country.

28. According to the ANC, the principal responsibility for ending violence lay with the Government,which had not carried out its obligations to the full extent of the law. Both the Government's pursuit of elements within the security forces implicated in the perpetration of violence and its approach to addressing the issue of violence by right-wing extremists were considered by the ANC to be "less than enthusiastic".

29. The ANC stated that the peace structures established under the National Peace Accord must be strengthened and that all organizations and administrations in South Africa should strictly abide by the provisions of the Peace Accord and the guidelines established by the Goldstone Commission. In that regard, the Government had yet to implement in full the recommendations of the Goldstone Commission and the United Nations Secretary-General, which, inter alia, called upon it to address the problem of the hostels and the carrying of dangerous weapons in public.

30. The Pan Africanist Congress of Azania (PAC) stated that all attempts at procuring peace had failed because the National Peace Accord had failed to identify the type of violence it was investigating; failed to identify the alleged perpetrators; failed to work for the expulsion or confinement to barracks of foreign-hired mercenary hit squads; and failed to establish appropriate investigatory and other organs. The Goldstone Commission was premised on the erroneous assumption that the perpetrators were ordinary people with a known address who could be summonsed. In addition, the Accord relied on the discredited SAP to establish discredited police boards that could never work. The PAC made a distinction between legitimate armed struggle and random senseless violence, which came primarily from the regime.

31. The PAC reported that, on 25 May 1993, the regime had arrested over 100 of its leaders and members, and confiscated documents and equipment at the organization's headquarters, regional offices and members' houses, including those of its President and Deputy President. At the time of its submission many of the confiscated items were still in the possession of the regime. The PAC stated that no serious charge could be brought against any PAC member or leader and that the regime stubbornly refused to implement a Negotiating Council decision to return PAC property, thereby showing contempt for that body.

32. The Christian Democratic Party of Bophuthatswana stated that South African society was confronted with wholesale massacres in areas where the conflict between the ANC and the IFP was at its worst.

33. The Democratic Party of South Africa stated in its submission that the structures established under the Peace Accord had made a good deal of progress and that it would be most helpful to strengthen them. However, it would be unrealistic to pretend that the violence in South Africa could be quickly or easily ended. According to the Democratic Party, it would first be necessary to procure a political settlement and then to re-establish the credibility of the police in the eyes of the people. Moreover, the Goldstone Commission continued to do excellent work and had the respect of all the reasonable parties in the country.

34. The Dikwankwetla Party stated that violence in South Africa ranged from indiscriminate, cold-blooded killings to daylight armed robberies, street assaults, shooting of school children and killing of elderly people in their homes. The Dikwankwetla Party also stated that political intolerance and intimidation had reached very serious dimensions, such as violent interruptions of meetings of other parties, assaults on their members and the burning of their homes.

35. The Inyandza National Movement stated in its submission that many attempts to stop the escalating violence had failed. To curb the violence various suggestions had been made to strengthen the National Peace Accord structures. However, the signatories to the Accord did not implement them and thus exposed the public to incitive speeches, including scathing attacks between the political leaders. It also stated that the Government had the capability to put an end to violence because the control of public gatherings was in its hands. The Government, however, exerted control with bias and partiality. A case in point was when peaceful marchers were subjected to harassment, assault,

detention and, sometimes, were even killed by illegally armed and violent thugs who had the freedom to act as they wished. Although it was illegal to carry traditional weapons in public, the law was not enforced.

36. The Solidarity Party of South Africa stated in its submission that unless Black political leaders demonstrated that there was no place for violence as the nation prepared for a democratic future, it was unlikely that a climate conducive to a peaceful transition would be realized. The Solidarity Party emphasized that despite the existence of the Goldstone Commission, the National Peace Accord and the presence of international observers, it could not be honestly stated that the climate in South Africa had changed for the better over the last two years. Political leaders must stop blaming the security forces for not being able to take action before the violence erupted but ask themselves what they themselves were doing to address the problem. It emphasized that all parties in the Multi-party Negotiating Process must collectively ensure that peace prevailed in South Africa by bringing violence under control.

Release of political prisoners and detainees

37. In paragraph 6 (a) of the Declaration on Apartheid, the General Assembly called on the Government of South Africa to "release all political prisoners and detainees unconditionally and refrain from imposing any restrictions on them".

38. The Record of Understanding agreed on by the Government and the ANC on 26 September 1992 provided, inter alia, for the release by 15 November 1992 of all prisoners whose imprisonment was related to political conflict of the past and whose release could make a contribution to reconciliation. It was agreed that the Record of Understanding related to events that had taken place prior to 8 October 1992. A mechanism for review of cases had also been agreed on in the understanding between the Government and ANC. One hundred and fifty prisoners were released immediately and another 42 were released on 15 November 1992. At the end of September 1993, 46 persons remained listed by the Human Rights Commission of South Africa as political prisoners. 16/

39. In the latter half of 1992 the Further Indemnity Act came into operation. The Act, while not defining political prisoners set very broad requirements for qualifications for release and established a National Indemnity Council consisting of three judges to advise the Government on any applications under the Act. The Act, also referred to as the Amnesty Bill, deals not only with prisoners, who might qualify under the terms of the Government/ANC understanding, but also with persons who might have committed offences motivated by political objectives but against whom no charges have been brought. The National Indemnity Council sits in camera and makes its recommendations in secret to the State President.

40. In its submission, the ANC stated that it had had numerous discussions with the Government on the issue of political prisoners. However, despite the Government's solemn undertakings to release all the remaining political prisoners, it had failed to fulfil its commitments and, as a result, a number of political prisoners were still in jail. In addition, the ANC noted that the statistics of research groups indicated that the monthly average numbers of people detained without a trial was higher during 1993 than in 1992.

41. The South African Institute of Race Relations stated that detention without trial had already been used during 1993 against dozens of people. Apart from the cases of the inept clamp-down on PAC activists and the detention of people subsequently charged with the murder of Mr. Chris Hani, the media, and most political organizations, had ignored those detentions. Queries by the Institute to the police had elicited only scanty information. 12/

42. In its submission to the present report, the Inyandza National Movement stated that the unconditional release of all political prisoners and detainees had "virtually ceased" since the first half of 1992; and that the Government had "developed debates" on the definition of political prisoners to escape from being blamed for not complying with the agreements it had entered into with the ANC. Inyandza has also alleged that political leaders were arrested and charged for offences committed as far back as 1976. It also stated its rejection of the blanket amnesty proposed by the Government, which, in Inyandza's opinion, was devised to protect the murderers of political activists opposed to the Government of South Africa.

Cessation of all political trials and political executions

43. The General Assembly, in paragraph 6 (e) of the Declaration on Apartheid, called on the Government to "cease all political trials and political executions". According to the Human Rights Commission of South Africa, by the end of September 1993, 82 political trials were in progress, involving over 700 accused. 16/ The Commission has also reported that during the first half of 1993 84 political trials were concluded in which 145 persons out of 824 accused were convicted. 17/

44. The Inyandza National Movement stated that while right-wing elements were free to do "what they please", the left was still being persecuted; and death sentences were still being given, then commuted to life and the condemned then paroled.

45. The International Committee of the Red Cross stated in its submission that it had been able to considerably increase its protection and assistance activities for the victims of the ongoing violence. The International Committee had been granted blanket access to South African police stations, including those in Bophuthatswana, Ciskei, Transkei and KwaZulu. From October 1992 to October 1993, its representatives made over 500 visits to detainees in some 300 police stations and prisons. 18/ It also intervened directly to save the lives of people injured during clashes at marches, rallies and funerals, in townships and rural areas. Principal areas of violence continued to be the Reef, Natal and the Eastern Cape/Border region.

Repeal of discriminatory legislation and legislation designed to circumscribe political activity

46. In paragraph 6 (d) of the Declaration on Apartheid, the General Assembly called upon the Government to "repeal all legislation, such as the Internal Security Act, designed to circumscribe political activity". It will be recalled that certain provisions of the Internal Security Act had been amended and others left unchanged (see A/45/1052, annex I, paras. 50 and 51). During the first

half of 1993 a total of 281 cases of detention without trial were reported under the Public Safety Act of 1953 and section 29 of the Internal Security Act. However, it was recently announced that Section 29 of the Internal Security Act would be annulled. 19/ The Government has continued to declare unrest areas in a number of townships, in accordance with the Public Safety Act, giving the police expanded emergency powers in those areas.

47. The Government of South Africa reported that the Negotiating Council had recently debated a substantial report prepared by the Task Group on the Identification and Repeal of Legislation Impeding Free Political Activity as well as Discriminatory Legislation. In that report, inter alia, it was stated that only those aspects of the existing legislation which could effectively impede free political activity in the run-up to the April 1994 elections were addressed. 20/

48. The Government of South Africa stated in its submission that the Multi-party Negotiating Process was engaged in devising a "higher code" to determine whether the existing legislation was discriminatory and if so, to ensure its repeal or amendment.

49. In that context, the Negotiating Council agreed on the discriminatory legislation or legislation impeding political activity that would be repealed or amended by the Parliament. To achieve this, it was agreed that the repressive legislation relating to the Republic of South Africa would be repealed by the Parliament. The representatives of Transkei and Venda agreed to the repeal of similar legislation in their homelands. The repeal of repressive legislation in Ciskei and Bophuthatswana was also agreed upon; however, since the representatives of those homelands were not participating in the negotiations it is not clear how this will be put into effect. 21/

50. It was noted that in September the Ciskei homeland issued a National Security Decree which, inter alia, provided for the re-introduction of detention without trial, allowed the authorities to ban gatherings and provided a definition of terrorism that is so broad that any opposition to the policies of the Ciskei authorities would fall within its ambit. 22/

51. The ANC stated in its submission that the continued application of certain security legislation was still hampering free and peaceful political activity in the country. The Multi-party Negotiating Process had focused on attaining an agreement on the repeal of such legislation, thus ensuring that there were no remaining obstacles in the path of a democratic transition. Legislation hampering free political activity existed in similar form in the "so-called Bantustans". The leaders of Bophuthatswana, Ciskei and KwaZulu, therefore, must be prevailed upon to allow free political activity in areas under their control in order to eliminate the "no-go" areas where ANC leaders and activists engaged in legitimate and peaceful political activity were being routinely attacked and even assassinated.

52. The PAC stated that the Government had not yet complied with the repeal of all legislation impeding free political activity and submitted a list of 10 laws that empower and enable the Government to inhibit free political activity. By way of example, the PAC mentioned the Internal Security Act, which allowed the

regime to arrest political opponents and deny them access to a speedy trial, legal representatives and visits from family members, and the Post Office Act, which allowed the regime to interfere with the mail of political opponents.

53. The Inyandza National Movement stated that certain provisions of the discriminatory laws had been left unchanged after minimal amendment and expressed its hope that before the establishment of the TEC those issues would be addressed. The Movement also rejected the Government's move to confer full police powers on homeland police forces involved in "cross-border operations".

54. With regard to the freedom of the press, agreements on and the subsequent enactment into law of the Bills creating the IMC and the IBA are expected to have a salutary effect. (For details on the functioning of those structures, see chapter IV below).

Return of exiles

55. It will be recalled that on 4 September 1991 a Memorandum of Understanding was signed between the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Government of South Africa. Following the signing of the Memorandum of Understanding, the Government declared a general amnesty benefiting all South African refugees and political exiles. The duration of the Memorandum was extended to September 1993. 23/

56. UNHCR has indicated that during the period under review further progress has been achieved regarding the return of political refugees, an important component in the creation of conditions for negotiations. By the end of May 1993, 10,957 South African refugees and exiles had registered for voluntary repatriation. Of those registered by the end of May 1993, the Government had cleared a total of 10,730 and 6,604 had returned to South Africa under UNHCR auspices. However, UNHCR reports a certain reluctance to repatriate, which may be due to the prevailing economic conditions, the unstable political situation, violence in the townships and the arrests and detention of some returnees. 23/

57. The PAC stated that since imprisonment and brutal murders of opponents of apartheid had continued, most South African/Azanian exiles had not returned and some had even left the country to return to exile.

Removal of all troops from the townships

58. In paragraph 6 (c) of the Declaration on Apartheid, the General Assembly called upon the Government to "remove all troops from the townships". During the period under review, the Government continued to deploy troops in the townships at the request of the police authorities. In early August 1993, it was reported that more than 1,000 army troops had been sent into townships where violence had erupted. 24/

59. Regarding this issue, the ANC has stated that the so-called "Internal Stability Unit" of the SAP had been implicated in fomenting violence, yet the Government had ignored the many calls for its withdrawal from townships hit by violence.

60. The Inyandza National Movement has stated that during the period under review the Government had deployed, in particular during the funerals of political activists, more troops in the townships, which angered people and increased violence.

III. SOCIO-ECONOMIC FACTORS OF RELEVANCE TO THE PROCESS OF ENDING APARTHEID

61. The gravity of the crises in the fields of education, health, labour and housing, which was also dealt with in previous progress reports (A/44/960 and Add.1-3, A/45/1052 and A/47/574), remains the subject of intense debate in South Africa.

62. In its submission for the present report, the Independent Development Trust stated that the structures of apartheid were being dismantled through negotiating forums and other representative bodies where agreements were being reached on their replacement. However, the legacies of apartheid had become socially and economically "ingrained" and, as a result, the process could not be completed in the short term. Nevertheless, it was encouraging that attempts were being made to equalize the provision of social services between racial groups, most notably in health, welfare and education. All major groupings were calling for social reconstruction based on four or five "pillars" of development such as job creation, housing, infrastructural development, national health systems and skill training, thus paving the way for the speedy elimination of the economic, social and political consequences of apartheid.

Education

63. Regarding the issue of education, the Government stated that on 2 February 1993 the Minister of Justice had released the draft Charter of Fundamental Educational Rights for comments and on 26 February 1993 the Minister of Education had released an Education Renewal Strategy report containing policy viewpoints and proposals for short- and medium-term solutions regarding the most important problems in education. It emphasized that discussions had been maintained between the Government and the leading members of all communities concerned with the Charter of Fundamental Educational Rights, the management of the transition from the present to a new non-racial regional education system and the Education Renewal Strategy.

64. In that regard, the Independent Development Trust stated in its submission that the Government had allocated 21.4 per cent of its 1993/1994 budget to education, an extremely high percentage by international standards. State spending on education between 1990/1991 and 1993/1994 had grown by an average of 16.2 per cent, with the allocation to Black education increasing by 29 per cent during that period, while the amount, in real terms, for White education had remained static.

Health

65. In connection with issues relating to health, the Government reported that so-called "own affairs" departments of health had been integrated into a single

Department of National Health and Population Development. The Government had allocated special funds for the construction of primary health care clinics. In this connection, 73 clinics had been completed, 50 were under construction and 28 were in the planning phase. Community health committees promoted community awareness regarding health and health care and served as liaison mechanisms between the communities and the health care system. These committees also provided primary health care services in the communities and, in cooperation with the health system, identified health problems and needs; determined priorities; developed action plans; and implemented decisions.

66. The IDT stated that in the 1993 budget the allocation to health services had been increased by 10.9 per cent, with a 38 per cent increase in capital spending accounting for approximately 10 per cent of the total budgetary expenditure.

Housing

67. On issues related to housing, the Government stated that the National Housing Forum was discussing interim arrangements for the transition period regarding delivery in the short term and the foundations for a comprehensive housing policy and strategy. Existing measures regarding the stimulation of housing production were being maintained in parallel with the new initiatives.

68. The IDT stated that the 1993 budget allocation for housing was R1.1 billion, representing an 8 per cent decrease, in real terms, from the previous year. Since R11 million per day needed to be spent until the year 2020 if the backlog of 1.8 million units for Blacks living outside the homelands was to be eradicated, the budgeted amount was clearly not adequate. It was noted, however, that discussions in the National Housing Forum had led to an increase in the allocation.

Labour

69. Regarding labour-related issues, the Government referred to the restructuring of the National Manpower Commission on a tripartite basis; the amendment to the Basic Conditions of Employment Act; the establishment of a committee to make proposals regarding dispute settlement procedures and methods of wage regulation in the domestic sector; the legislation to extend the Labour Relations Act and the Wage Act to agriculture; the Agricultural Labour Bill; amendments to the Conditions of Employment Act; and the establishment of the National Economic Forum in which the Government, business and unions were active participants in the institution of practical programmes for the creation of a suitable business climate.

70. The Government emphasized that the current depressed state of the economy and resulting socio-economic conditions posed the greatest long-term obstacles to a successful transition. The socio-economic development of the underprivileged section of the South African population remained, to a large extent, a prerequisite for peace and stability in the country.

71. The IDT stated that unemployment remained a major challenge currently facing South Africa. The causes of unemployment were deep-seated and

structural. It estimated that of the economically active population of 14 million, 40 to 50 per cent were unemployed. While some of the unemployed - 2.5 to 3 million - were active in the informal sector of the economy, there remained about 3 million totally without employment. Under the prevailing circumstances, only 3 out of every 100 school-leavers were expected to find employment in the formal sector of the economy.

72. The Inyandza National Movement stated that violence was an obstacle to socio-economic development in South Africa. It was not enough for the Government to engage in talks and create buffer structures without addressing the primary problems such as the imbalances in the society as a whole, in particular those concerning economic development. Negotiating forums lacked enforcement authority, so it was up to the Government immediately and effectively to address the imbalances in the fields of education, labour, housing and health. Only then would the repeal of the basic laws of apartheid have any meaning for the ordinary man in the street. The Government, however, was not prepared to address those issues.

73. The South African Chamber of Business stated that with the possibility of a negotiated settlement and the establishment of a stable transitional Government, conditions for a positive investment climate could be foreseen.

IV. ARRANGEMENTS AND MODALITIES FOR THE TRANSITION TO A NEW DEMOCRATIC ORDER

74. In paragraph 8 of the Declaration on Apartheid, the General Assembly considered that the process of negotiation could start based on agreements concerning: (a) the mechanism for the drawing up of a new constitution; (b) the role to be played by the international community in ensuring a successful transition to a democratic order; and (c) the necessary arrangements and modalities for the transition, including the holding of elections.

Principles envisaged in a new constitution

75. On 2 July 1993, the Plenary of the Multi-party Negotiating Process adopted by consensus 27 Constitutional Principles, which, along with a Bill of Fundamental Human Rights, would be included in both the interim constitution and the final constitution to be adopted by an elected constituent assembly/interim parliament. Those principles are intended to provide for a strong central Government as well as to accommodate regional diversity in the country (see A/48/285-S/26198, annex).

76. The Inyandza National Movement in its submission stated that the Constitutional Principles adopted by the negotiators in July would serve as building blocks for South Africa's new constitution.

77. The Solidarity Party of South Africa stated that the Multi-party Negotiating Process must seek to accommodate the genuine concerns of some of the participants with regard to the future constitutional framework for South Africa.

Transition to a new democratic order

78. Under the Constitution for the Transitional Period, the national parliament will consist of a 400-member national assembly elected on the basis of proportional representation and of a 90-member senate, which is to be elected by the nine provincial legislatures. The national assembly will elect the President of the country. The full parliament will serve both as an interim parliament and as a constituent assembly mandated to draw up South Africa's final constitution.

79. The Constitution for the Transitional Period abolishes the homelands and divides the country into nine provinces, each with an elected provincial legislature. The legislatures will administer education, health, police and other services at the provincial level as well as elect the representatives for the 10 seats allocated to each province in the senate of the national parliament.

80. The Constitution for the Transitional Period guarantees fundamental rights, which include, inter alia, equality of race and gender; freedom of speech, assembly and movement; the right to vote; the right to a fair trial; the right not to be exposed to torture and cruel or inhuman punishment; and the right of those dispossessed of land under apartheid to seek restitution. It also limits the president's power to declare a state of emergency.

81. The agreed Constitution for the Transitional Period also provides, inter alia,

(a) That a government of national unity will be established following elections in April 1994 and will continue until April 1999, when national elections under a new constitution will be held. It will be responsible to the constituent assembly/interim parliament;

(b) That provisions regarding the boundaries, powers and functions of provinces and any amendments thereto in the new constitution adopted by the constituent assembly/interim parliament will require the approval of the Senate with a two-thirds majority;

(c) That, immediately after the elections in April 1994, provincial legislatures will be entitled to adopt provincial constitutions as long as they are consistent with the agreed Constitutional Principles and with the transitional constitution;

(d) A deadlock in the adoption of the final constitution by the interim parliament will ultimately be broken by a 60 per cent majority in both the senate and the national assembly;

(e) That a constitutional court will have the authority to resolve disputes of interpretation of the constitution for the transitional period between different levels of government. The constitutional court will be composed of 11 members. Four will be nominated by the chief justice, six by a judicial service commission and the chief executive will appoint the president of the constitutional court.

82. The Plenary also mandated the Negotiating Council to continue to finalize and to submit to Parliament any required legislation with regard to the following matters, which were in various stages of processing by the Multi-party Negotiating Process:

(a) Local government transition bill;

(b) Repeal or amendment of discriminatory legislation and legislation impeding free political activity;

(c) Reintegration of Walvis Bay into Namibia;

(d) Citizenship;

(e) Bill dealing with the future of Transkei, Bophuthatswana, Venda and Ciskei;

(f) Establishment of the Independent Telecommunications Authority.

83. The transition to a new democratic order is envisaged to start with the establishment and functioning of the TEC, which will include one member from each of the parties represented in the Multi-party Negotiating Process, on condition that they commit themselves and their armed formations, in writing, to the objectives of the TEC, to renounce violence as a means to achieve political goals and to abide by the TEC decisions. Parties that have not participated in the multi-party negotiations can join the TEC subject to the same stipulations. Homeland Governments can take part in the TEC after they have included the TEC Act in their respective laws.

84. The TEC will be composed of the following seven Subcouncils: Regional and Local Government and Traditional Authorities; Law and Order, Stability and Security; Defence; Intelligence; Finance; Foreign Affairs; and Status of Women. 25/

85. The State President and the Cabinet will keep the TEC informed on any proposed legislation, decisions and intended actions. If 75 per cent of TEC members so decide, the Council can stop legislation and/or reverse a government decision. The TEC can request all kinds of documents and information and can conduct investigations and delegate powers to its subcouncils. The State President must consult the TEC before declaring a state of emergency or "unrest areas" in the country. The TEC can review such a decision and, if 80 per cent of its members so decide, can reverse the decision. Provision has been made for dispute resolution by a Special Electoral Court. 26/

86. During the transition period the IEC, IMC and IBA will function to ensure that the electoral campaign and the elections themselves are conducted in a manner that can be certified as free and fair. The IEC will consist of between 7 and 11 South African members and up to 5 members from the international community to be appointed by the State President on the recommendation of the TEC. International experts will be appointed to an international advisory committee that will work with the Commission. The Commission will have

subordinate structures such as an election administration directorate, an election monitoring directorate and an election adjudication secretariat. 27/

87. The ANC stressed that it was essential that the international community, and especially the United Nations, respond positively to a request for assistance, expected to be made by the IEC, which would probably include voter education, election monitoring and certification.

88. The Natal Indian Congress and the Transvaal Indian Congress noted in its submission the pivotal role played by the United Nations in guaranteeing South Africans a democratic future. In that context, to ensure an inclusive, legitimate and peaceful election in 1994, the Congress recommended that the United Nations provide electoral assistance, particularly in the area of election monitoring. The United Nations was also called upon to do everything possible to ensure the constructive participation in the transitional institutions and elections of those organizations which are currently refusing to participate in the negotiations process.

89. The IMC and the IBA will assume the responsibility of ensuring the free flow of unbiased information concerning the elections to the public. The IMC will consist of seven members appointed by the TEC and will ensure that during the run-up period leading to the April elections all political parties receive equitable treatment from the broadcasting services and that state-financed publications as well as state information services do not inequitably advance the interests of any of the political parties contesting the elections.

90. The IBA will monitor radio and television broadcasts during the period leading up to elections to ensure that they are even-handed. The IBA will consist of seven members appointed by the TEC and will function wholly independently from state, governmental and party political influences and free from political or other bias or interference. 28/

V. REVIEW OF INTERNATIONAL ACTION WITH REGARD TO SOUTH AFRICA

91. Following the adoption by consensus by the General Assembly of the 1989 Declaration on Apartheid and its Destructive Consequences in Southern Africa (resolution S-16/1, annex), the international community has, in resolutions adopted by the Assembly each year, unanimously expressed its continued commitment to the peaceful elimination of apartheid and the transition of South Africa to a non-racial and democratic society as envisaged in the Declaration.

92. The General Assembly, in paragraph 12 of its resolution 47/116 A of 18 December 1992, called upon the international community to support the vulnerable and critical process still under way in South Africa through a phased application of appropriate measures with regard to the South African authorities, as warranted by ongoing developments, and, within the context of the need to respond appropriately to them, to review existing restrictive measures as warranted by positive developments, such as agreement by the parties on transitional arrangements and agreement on a new, non-racial and democratic constitution.

93. During the period under review, the international community has welcomed the developments that led to the reconvening of the multi-party negotiations in April 1993, the decisions on the establishment of the TEC and on the holding of elections for an interim Government and a constituent assembly/interim parliament on 27 April 1994. It has, however, on numerous occasions expressed its concern at the unprecedented levels of violence in the country.

94. With regard to international response to recent developments in South Africa and the agreements establishing the TEC, on 24 September 1993 the Commonwealth announced the immediate lifting of all trade, investment and financial sanctions and on 25 September 1993 the European Community and its member States issued a declaration on South Africa (see A/48/454, annex) welcoming recent developments in that country which had enabled Mr. Mandela to call for the lifting of all economic sanctions and also stating that the Community and its member States would soon be considering further steps towards normalizing relations with South Africa concurrently with developments towards majority rule in the country. It will be recalled that Mr. Mandela, in his address at the United Nations on 24 September 1993, had appealed to the international community for the lifting of all economic sanctions against South Africa.

95. On 29 September 1993, following the decision by the Ad Hoc Committee on Southern Africa of the Organization of African Unity (OAU) to call upon all the African States, the international community at large and the United Nations in particular to respond positively to Mr. Mandela's appeal (see A/48/461-S/26514, annex), and following consultations held with States Members of the United Nations by the Chairman of the Special Committee against Apartheid, on 8 October 1993 the General Assembly adopted by consensus resolution 48/1, entitled "Lifting of sanctions against South Africa".

96. By that resolution, the General Assembly decided that all provisions adopted by it relating to prohibitions or restrictions on economic relations with South Africa and its nationals, whether corporate or natural, including the areas of trade, investment, finance, travel and transportation, should cease to have effect as at the date of the adoption of the resolution, and requested all States to take appropriate measures within their jurisdiction to lift the restrictions and prohibitions they had imposed to implement the previous resolutions and decisions of the Assembly.

97. By that resolution, the General Assembly also decided that all provisions adopted by it relating to the imposition of an embargo on the supply of petroleum and petroleum products to South Africa, and on investment in the petroleum industry there, should cease to have effect as at the date that the TEC became operational, and requested all States to take appropriate measures within their jurisdiction to lift any restrictions or prohibitions they had imposed to implement previous resolutions and decisions of the Assembly in that respect.

98. The question of diplomatic relations is not dealt with in resolution 48/1. In that regard, the OAU Ad Hoc Committee on Southern Africa stated that it supported the establishment or restoration of full diplomatic relations with South Africa following the installation of an elected interim Government of

national unity, pursuant to the elections to be held on 27 April 1994 (see A/48/461-S/26514, annex).

99. The embargo on arms and nuclear matters imposed by the Security Council in its resolutions 418 (1977) and 581 (1986) remains in effect.

100. The Government of South Africa, in its contribution to the present report, stated that it welcomed the lifting of all remaining economic restrictions and prohibitions on the South African economy. It said that the time had finally arrived for the international community actively to assist South Africa's transition by investing in its future and, furthermore, affording South Africa the opportunity to fulfil its rightful role in the community of nations.

101. Following the adoption of resolution 48/1, several Governments announced a series of steps to lift economic sanctions against South Africa, including trade, investment and financial sanctions. Earlier in the year, in response to the resumption of multi-party negotiations, a number of Governments had announced plans to lift diplomatic and economic sanctions against South Africa in anticipation of agreements on the transitional structures in the country.

102. The restrictions and prohibitions imposed by the General Assembly in its resolution 36/172 D of 17 December 1981 on the Secretary-General as well as on all the agencies and organizations of the United Nations system have also been lifted through the adoption by the Assembly of resolution 48/1.

103. As mentioned in paragraph 55 above, on 4 September 1991 UNHCR and the Government of South Africa had signed a Memorandum of Understanding setting out the political, legal and humanitarian requirements for the organized voluntary repatriation and reintegration of South African refugees and exiles. The General Assembly, in its resolution 47/116 A, requested the Secretary-General, inter alia, to continue to ensure the coordination of activities of the United Nations and its agencies with regard to South Africa and, as appropriate, inside that country. In that connection, in December 1992 the United Nations Children's Fund (UNICEF) attached a small team of international professionals to the UNHCR Office in South Africa to provide assistance to children and women in especially difficult circumstances, with particular emphasis on the resettlement of returnees, victims of violence and other internally displaced groups (for activities of UNHCR and UNICEF in South Africa, see A/48/467 and Add.1).

104. In their submissions the ANC and the PAC emphasized the important role that the United Nations Observer Mission in South Africa was playing in the country. The ANC welcomed the recent Security Council agreement to increase the number of United Nations observers 29/ to 100 and also encouraged other intergovernmental organizations to increase the size of their presence in South Africa. The PAC stated that the United Nations Observer Mission in South Africa needed a stronger mandate until the arrival of an international peace-keeping force and should be given the responsibility to investigate, expose and assist in resolving issues regarding regime-inspired violence.

105. Several United Nations offices and agencies have continued to monitor the situation in South Africa and have initiated studies in preparation for programmes to provide, at the appropriate time, a concerted system-wide response

to address the socio-economic disparities in vital areas such as human resource development, health and education (for the coordinated activities, see A/48/467 and Add.1). Regarding international assistance, the ANC stated in its submission that the emplacement of the TEC would facilitate the provision of assistance by the international community, including assistance by various United Nations organs and agencies.

106. As noted above, the United Nations, together with the Commonwealth, is planning to convene in June 1994 an International Donors Conference on Human Resource Development for a Post-Apartheid South Africa to stimulate interest among donor countries and agencies in addressing the human resource development needs of a post-apartheid South Africa, particularly those of the disadvantaged sectors of society. International organizations, bilateral aid agencies, non-governmental organizations and South African political, community, professional and grass-roots bodies will be invited to the Conference. Preparations for it will be made in consultation with the TEC and, following elections, with the new Government.

107. In this connection, the Commonwealth Heads of Government, in their communiqué issued on 25 October 1993 at Limassol, Cyprus (A/48/564, annex), welcomed the decision taken jointly by the United Nations and the Commonwealth, in consultation with other donor agencies, on the Conference. In the communiqué, the Commonwealth stated that the Conference would be an important forum for reviewing the human resource development needs of post-apartheid South Africa based on the Commonwealth Expert Group Report entitled "Beyond Apartheid: Human Resources in a New South Africa" and a means of facilitating improved coordination among donors. They stressed the urgency of redressing the imbalances in skills inherited from apartheid in the context of a viable non-racial democracy and called on all Governments and donor agencies to support the initiative.

Notes

1/ By 10 November 1993, submissions had been received by the Secretariat from the Government of South Africa and from the following parties, movements and organizations:

African National Congress of South Africa
The Black Sash
Christian Democratic Party of Bophuthatswana
Democratic Party
Dikwankwetla Party
Independent Development Trust
International Committee of the Red Cross
Inyandza National Movement
Pan Africanist Congress of Azania
Natal Indian Congress and Transvaal Indian Congress
Solidarity Party of South Africa
South African Chamber of Business.

2/ Sowetan (Johannesburg), 5 April 1993, and Southern Africa Report (Johannesburg), 14 May 1993.

3/ South African Barometer (Johannesburg), 9 April, Sowetan (Johannesburg), 1 April 1993, Financial Times (London), 11 June 1993, and United Nations sources.

4/ Letter dated 29 July 1993 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General (A/48/285-S/26198), The Star (Johannesburg), 10 September 1993, and Pretoria News (Pretoria) and Business Day (Johannesburg), 9 September 1993.

5/ Statement made by Chief Mangosuthu G. Buthelezi at hearings on agenda item 38 of the forty-eighth session of the General Assembly at a meeting of its Special Political and Decolonization Committee on 9 November 1993 (see A/C.4/48/SR.16).

6/ Resolution on the processing of the accepted Transitional Executive Council Bill put to the Negotiating Council on 7 September 1993.

7/ The Washington Post, 24 September 1993.

8/ Opening statement made by Chief Buthelezi at the Tuynhuys Summit Meeting on 16 September 1993.

9/ The Washington Post, 8 October 1993.

10/ The Citizen (Johannesburg) and Business Day (Johannesburg), 7 October 1992.

11/ Memorandum for discussion by Chief Buthelezi at a meeting between the leaders of the Freedom Alliance and the State President of South Africa at Cape Town on 11 October 1993; and statement made by Chief Buthelezi at hearings on agenda item 38 of the forty-eighth session of the General Assembly at a meeting of its Special Political and Decolonization Committee on 9 November 1993 (see A/C.4/48/SR.16).

12/ South African Institute of Race Relations, News Service for Members, "Wise to be Vigilant", John Kane-Berman, 11 October 1993.

13/ Human Rights Commission of South Africa, Three Years of Destabilization: A Record of Political Violence in South Africa, from July 1990 to June 1993, 1993.

14/ Ibid., Summary Report of Repression for the Month of September 1993.

15/ Southscan (London), 23 July 1993.

16/ Human Rights Commission of South Africa, Summary Report of Repression for the Month of September 1993.

17/ Ibid., Summary Report of Repression for the Month of June 1993.

18/ International Committee of the Red Cross, Media No. 128, Geneva, 28 October 1993.

19/ Human Rights Commission of South Africa, Monthly Report of Repression for the Month of June 1993 and Press Statement No. 93/11, 11 November 1993.

20/ Negotiations update submitted on 2 November 1993 by the Permanent Mission of South Africa to the United Nations.

21/ British Anti-Apartheid Movement, Election Monitor, No. 9, London, 17 November 1993.

22/ Human Rights Commission of South Africa, Press Statement No. 93/11, 11 November 1993.

23/ UNHCR submission to the report of the Secretary-General on the coordinated approach by the United Nations system on questions relating to South Africa (A/48/467 and Add.1).

24/ The Washington Post, 6 August 1993.

25/ Resolution on the processing of the accepted Transitional Executive Council Bill put to the Negotiating Council on 7 September 1993.

26/ The Guardian (London), 2 September 1993.

27/ Pretoria News, 9 September 1993, and Sunday Times (Johannesburg), 12 September 1993.

28/ Resolution on the processing of the accepted Transitional Executive Council Bill put to the Negotiating Council on 7 September 1993 and Pretoria News, 9 September 1993.

29/ See S/26559.

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Agenda item 17 (a)

APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Appointment of members of the Advisory Committee on Administrative and Budgetary Questions

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 17th meeting, on 15 November 1993, the Fifth Committee considered a note by the Secretary-General (A/48/101) concerning the vacancies in the membership of the Advisory Committee on Administrative and Budgetary Questions that will occur as a result of the expiration of the term of office of five of its members on 31 December 1993.

2. The Fifth Committee also had before it a note by the Secretary-General (A/C.5/48/20) containing the names of seven persons nominated by their respective Governments for appointment or reappointment to the Advisory Committee for a three-year term of office beginning on 1 January 1994.

3. The Fifth Committee decided, by acclamation, to recommend the appointment to the Advisory Committee on Administrative and Budgetary Questions, for a three-year term of office beginning on 1 January 1994, of Mr. Leonid E. Bidny (Russian Federation) and Mr. Simon Khoam Chuinkam (Cameroon).

4. The Fifth Committee proceeded to elect by secret ballot one person from the candidates proposed by States from the Group of Latin American and Caribbean States. The result of the voting was as follows:

Number of ballot papers:	172
Invalid ballots:	13
Number of valid ballots:	159
Abstentions:	None
Number of members voting:	159
Required majority:	80
Number of votes obtained:	
Mr. Even Fontaine-Ortiz	91
Mr. Hernando Clavijo	68

5. Having obtained the required majority, Mr. Even Fontaine-Ortiz (Cuba) was declared recommended for appointment as a member of the Advisory Committee on Administrative and Budgetary Questions for a three-year term of office beginning on 1 January 1994.

6. The Fifth Committee then proceeded to elect by secret ballot two persons from the candidates proposed by States from the Group of Western European and Other States. The result of the voting was as follows:

Number of ballot papers:	176
Invalid ballots:	1
Number of valid ballots:	175
Abstentions:	1
Number of members voting:	174
Required majority:	88
Number of votes obtained:	
Mrs. Inga Eriksson Fogh	132
Ms. Linda S. Shenwick	102
Mr. Clive Stitt	91

7. Having obtained the required majority and the highest number of votes, Mrs. Inga Eriksson Fogh (Sweden) and Ms. Linda S. Shenwick (United States of America) were declared recommended for appointment as members of the Advisory Committee on Administrative and Budgetary Questions for a three-year term of office beginning on 1 January 1994.

RECOMMENDATION OF THE FIFTH COMMITTEE

8. The Fifth Committee recommends that the General Assembly should appoint the following persons as members of the Advisory Committee on Administrative and Budgetary Questions for a three-year term of office beginning on 1 January 1994:

Mr. Leonid E. Bidny;

Mr. Simon Khoam Chuinkam;

Mrs. Inga Eriksson Fogh;

Mr. Even Fontaine-Ortiz;

Ms. Linda S. Shenwick.

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General Assembly

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Agenda item 17 (b)

APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Appointment of members of the Committee on Contributions

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 17th meeting, on 15 November 1993, the Fifth Committee considered a note by the Secretary-General (A/48/102) concerning the vacancies in the membership of the Committee on Contributions that will occur as a result of the expiration of the term of office of six of its members on 31 December 1993. The Fifth Committee also considered a note by the Secretary-General (A/48/102/Add.1) advising the General Assembly of the resignation of a member of the Committee, requiring the appointment at the current session of a person to fill the unexpired portion of the term of office of that member, that is, until 31 December 1995.

2. The Fifth Committee also had before it a note by the Secretary-General (A/C.5/48/21) containing the names of seven persons nominated by their respective Governments for appointment or reappointment to the Committee on Contributions for a three-year term of office beginning on 1 January 1994, as well as the name of one person nominated by his Government for appointment to the Committee to fill the unexpired portion of the term of office of the member who had resigned.

3. The Fifth Committee decided, by acclamation, to recommend the appointment to the Committee on Contributions, for a three-year term of office beginning on 1 January 1994, of Mr. Alvaro Gurgel de Alencar (Brazil), Mr. Li Yong (China), Mr. Ugo Sessi (Italy), Mr. Agha Shahi (Pakistan) and Mr. Adrien Teirlinck (Belgium), and, for a two-year term of office beginning on 1 January 1994, of Mr. Neil Hewitt Francis (Australia).

4. The Fifth Committee then proceeded to elect by secret ballot one person from the candidates proposed by States from the Group of Eastern European States. The result of the voting was as follows:

Number of ballot papers:	175
Invalid ballots:	2
Number of valid ballots:	173
Abstentions:	3
Number of members voting:	170
Required majority:	86
Number of votes obtained:	
Mr. Yuri A. Chulkov	86
Mr. Andriy Revenko	84

5. Having obtained the required majority, Mr. Yuri A. Chulkov (Russian Federation) was declared recommended for appointment as a member of the Committee on Contributions for a three-year term of office beginning on 1 January 1994.

RECOMMENDATION OF THE FIFTH COMMITTEE

6. The Fifth Committee recommends that the General Assembly should appoint the following persons as members of the Committee on Contributions:

(a) For a three-year term of office beginning on 1 January 1994:

Mr. Yuri A. Chulkov;

Mr. Alvaro Gurgel de Alencar;

Mr. Li Yong;

Mr. Ugo Sessi;

Mr. Agha Shahi;

Mr. Adrien Teirlinck;

(b) For a two-year term of office beginning on 1 January 1994:

Mr. Neil Hewitt Francis.

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Agenda item 17 (c)

APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Appointment of a member of the Board of Auditors

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 17th meeting, on 15 November 1993, the Fifth Committee considered a note by the Secretary-General (A/48/103) concerning the vacancy in the membership of the United Nations Board of Auditors that will occur as a result of the expiration of the term of office of one of its members on 30 June 1994.

2. The Auditor-General of Ghana was nominated by his Government for reappointment as a member of the Board of Auditors for a three-year term of office beginning on 1 July 1994.

3. The Fifth Committee decided, by acclamation, to recommend the Auditor-General of Ghana for appointment as a member of the Board of Auditors for a three-year term of office beginning on 1 July 1994.

RECOMMENDATION OF THE FIFTH COMMITTEE

4. The Fifth Committee recommends that the General Assembly should appoint the Auditor-General of Ghana as a member of the United Nations Board of Auditors for a three-year term of office beginning on 1 July 1994.

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APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Confirmation of the appointment of members of the Investments Committee

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 17th meeting, on 15 November 1993, the Fifth Committee considered a note by the Secretary-General (A/48/104) concerning the vacancies in the membership of the Investments Committee that will occur as a result of the expiration of the term of office of three of its members on 31 December 1993.

2. The Fifth Committee also had before it a note by the Secretary-General (A/C.5/48/23), in which, in accordance with the provisions of article 20 of the regulations of the United Nations Joint Staff Pension Fund, the Secretary-General submitted for confirmation by the General Assembly the appointment as members of the Investments Committee of Ms. Francine J. Bovich (United States of America), Mr. Jean Guyot (France) and Mr. Michiya Matsukawa (Japan) for a three-year term of office beginning on 1 January 1994.

3. The Fifth Committee decided, by acclamation, to recommend to the General Assembly that it should confirm the appointment as members of the Investments Committee of Ms. Francine J. Bovich (United States of America), Mr. Jean Guyot (France) and Mr. Michiya Matsukawa (Japan) for a three-year term of office beginning on 1 January 1994.

RECOMMENDATION OF THE FIFTH COMMITTEE

4. The Fifth Committee recommends that the General Assembly should confirm the appointment by the Secretary-General of the following persons as members of the Investments Committee for a three-year term of office beginning on 1 January 1994:

Ms. Francine J. Bovich;

Mr. Jean Guyot;

Mr. Michiya Matsukawa.

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APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Appointment of members of the United Nations Administrative Tribunal

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 17th meeting, on 15 November 1993, the Fifth Committee considered a note by the Secretary-General (A/48/105) concerning the vacancies in the membership of the United Nations Administrative Tribunal that will occur as a result of the expiration of the term of office of two of its members on 31 December 1993.

2. The Fifth Committee also had before it a note by the Secretary-General (A/C.5/48/24) containing the names of five persons nominated by their respective Governments for appointment to the Administrative Tribunal for a three-year term of office beginning on 1 January 1994.

3. At the same meeting, the Fifth Committee was informed that the Government of Romania had decided to withdraw the candidature of Mr. Ioan Voicu for appointment to the Administrative Tribunal.

4. The Fifth Committee proceeded to elect by secret ballot two persons from the candidates proposed by Member States. The result of the voting was as follows:

Number of ballot papers:	171
Invalid ballots:	None
Number of valid ballots:	171
Abstentions:	2
Number of members voting:	169
Required majority:	85
Number of votes obtained:	
Mr. Mayer Gabay	99
Mr. Luis M. de Posadas Montero	82
Mr. Arpád Prandler	79
Mr. Roberto Lavalle Valdés	74

5. Having obtained the required majority, Mr. Mayer Gabay (Israel) was declared recommended for appointment as a member of the United Nations Administrative Tribunal for a three-year term of office beginning on 1 January 1994.

6. The Committee then proceeded to a second ballot, which was restricted to the two candidates having obtained the largest number of votes, to fill the remaining vacancy. The result of the second ballot was as follows:

Number of ballot papers:	158
Invalid ballots:	2
Number of valid ballots:	156
Abstentions:	2
Number of members voting:	154
Required majority:	78
Number of votes obtained:	
Mr. Luis M. de Posadas Montero	102
Mr. Arpád Prandler	52

7. Having obtained the required majority, Mr. Luis M. de Posadas Montero (Uruguay) was declared recommended for appointment as a member of the United Nations Administrative Tribunal for a three-year term of office beginning on 1 January 1994.

RECOMMENDATION OF THE FIFTH COMMITTEE

8. The Fifth Committee recommends that the General Assembly should appoint the following persons as members of the United Nations Administrative Tribunal for a three-year term of office beginning on 1 January 1994:

Mr. Mayer Gabay;

Mr. Luis M. de Posadas Montero.

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APPOINTMENTS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER APPOINTMENTS

Appointment of members of the International Civil Service Commission

Report of the Fifth Committee

Rapporteur: Mr. Mahbub KABIR (Bangladesh)

1. At its 28th meeting, on 3 December 1993, the Fifth Committee considered a note by the Secretary-General (A/48/106) concerning the vacancies in the membership of the International Civil Service Commission that will occur as a result of the expiration of the term of office of five of its members on 31 December 1993.

2. The Fifth Committee also had before it a note by the Secretary-General (A/C.5/48/25) containing the names of six persons nominated by their respective Governments for appointment to the International Civil Service Commission for a four-year term of office beginning 1 January 1994, which included one person for the vacancy to be filled by a candidate from the Group of Asian States, one person for the vacancy to be filled by a candidate from the Group of Latin American and Caribbean States and four persons for the three vacancies to be filled by candidates from the Group of Western European and Other States. The note by the Secretary-General further contained the list of candidates compiled by the Secretary-General, in accordance with the provisions of articles 4 and 5 of the Commission's statute, for appointment as members of the Commission.

3. At the same meeting, the Fifth Committee was informed that the Government of Germany had decided to withdraw the candidature of Mr. Helmut Kitschenberg.

4. The Fifth Committee decided, by acclamation, to recommend the appointment to the International Civil Service Commission, for a four-year term of office beginning on 1 January 1994, of Mr. Mario Bettati (France), Ms. Lucretia Myers

(United States of America), Mr. Antônio Fonseca Pimentel (Brazil), Mr. Alexis Stephanou (Greece) and Mr. Ku Tashiro (Japan).

RECOMMENDATION OF THE FIFTH COMMITTEE

5. The Fifth Committee recommends that the General Assembly should appoint the following persons as members of the International Civil Service Commission for a four-year term of office beginning on 1 January 1994:

Mr. Mario Bettati

Ms. Lucretia Myers

Mr. Antônio Fonseca Pimentel

Mr. Alexis Stephanou

Mr. Ku Tashiro.

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Forty-eighth session
Agenda item 42
THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-eighth year

Letter dated 28 November 1993 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to Secretary-General

I have the honour to present to you the attached letter, dated 24 November 1993, from my President to Your Excellency (see annex).

May I ask for your kind assistance in circulating this letter as a document of the General Assembly, under agenda item 42, and of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative

ANNEX

Letter dated 24 November 1993 from the President of the Republic of Bosnia and Herzegovina addressed to the Secretary-General

I would like to thank you for your letter, dated 18 November 1993, which I received with a delay.

I am taking the liberty of pointing out some facts, casting more light on problems relating to Bosnia and Herzegovina, which might bring about changes in some of the positions stated in your letter.

I do not have any doubts that the international community and the Co-Chairmen of the Geneva Conference have devoted substantial efforts to have peace restored, but obviously all these efforts have failed. The reason for this failure lies partly in the fact that some grounds for negotiations have not been valid. Namely, the conflict in Bosnia and Herzegovina is not a conflict of three sides, as stated in your letter. It is an open and brutal aggression against an independent State, which is a Member State of the United Nations. A direct consequence of the aggression has been the establishment of phantom para-states in the territory of Bosnia and Herzegovina, which was followed by a legitimacy given by the international community, taking them as the sides to the conflict. It is not possible to conduct a peace process successfully having such hypotheses as its grounds.

It could also be concluded from your letter that further humanitarian aid of the international community depends on the creation of conditions for a renewed conference on peace in Bosnia and Herzegovina. We consider such a position unacceptable, because humanitarian aid must not be conditioned by reasons of a political nature.

It is only a just peace that has a future. I would like to inform you that we are in favour of such a peace. It can be reached only by honouring relevant resolutions of the United Nations Security Council and the principles of the London Conference.

(Signed) Alija IZETBEGOVIĆ